

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSE
CHATTANOOGA DIVISION

SKF USA INC.,)
)
Plaintiff,) CIVIL ACTION NO. 1:09-CV-299
)
v.)
)
CRESWELL RICHARDSON,)
)
Defendant.))

ANSWER

Defendant Creswell Industrial Supply, Inc. d/b/a Creswell Richardson (“Defendant” or “Creswell”), who was incorrectly named “Creswell Richardson” in the Plaintiff’s Complaint, comes now by and through counsel to file its Answer to the Plaintiff’s Complaint and states as follows:

1. With respect to the allegations contained in Paragraph 1 of the Complaint, it is denied that Defendant violated any of the laws to which Plaintiff refers in this paragraph, but admitted that this paragraph is a summation of Plaintiff’s alleged causes of action.
2. With respect to the allegations contained in Paragraph 2 of the Complaint, it is denied that Plaintiff is entitled to any relief from Defendant, and denied that Defendant committed any wrongdoing, but admitted that this paragraph contains allegations against Defendant, and a summation of Plaintiff’s prayer for relief.
3. With respect to the allegations contained in Paragraph 3 of the Complaint, it is admitted that this court has jurisdiction over Plaintiff’s claims. All other allegations in this paragraph are denied.
4. The allegations contained in Paragraph 4 of the Complaint are admitted.

5. The allegations contained in Paragraph 5 of the Complaint are admitted.

6. With respect to the allegations contained in Paragraph 6 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

7. The allegations contained in Paragraph 7 of the Complaint are admitted.

8. With respect to the allegations contained in Paragraph 8 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

9. With respect to the allegations contained in Paragraph 9 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

10. With respect to the allegations contained in Paragraph 10 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

11. With respect to the allegations contained in Paragraph 11 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

12. With respect to the allegations contained in Paragraph 12 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

13. With respect to the allegations contained in Paragraph 13 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

14. With respect to the allegations contained in Paragraph 14 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

15. With respect to the allegations contained in Paragraph 15 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

16. With respect to the allegations contained in Paragraph 16 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

17. With respect to the allegations contained in Paragraph 17 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

18. With respect to the allegations contained in Paragraph 18 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

19. With respect to the allegations contained in Paragraph 19 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

20. With respect to the allegations contained in Paragraph 20 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

21. With respect to the allegations contained in Paragraph 21 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

22. With respect to the allegations contained in Paragraph 22 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

23. With respect to the allegations contained in Paragraph 23 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

24. With respect to the allegations contained in Paragraph 24 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

25. With respect to the allegations contained in Paragraph 25 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

26. With respect to the allegations contained in Paragraph 26 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

27. With respect to the allegations contained in Paragraph 27 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

28. With respect to the allegations contained in Paragraph 28 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

29. With respect to the allegations contained in Paragraph 29 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

30. With respect to the allegations contained in Paragraph 30 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

31. With respect to the allegations contained in Paragraph 31 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

32. With respect to the allegations contained in Paragraph 32 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

33. With respect to the allegations contained in Paragraph 33 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

34. With respect to the allegations contained in Paragraph 34 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

35. With respect to the allegations contained in Paragraph 35 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

36. With respect to the allegations contained in Paragraph 36 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

37. With respect to the allegations contained in Paragraph 37 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

38. With respect to the allegations contained in Paragraph 38 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

39. With respect to the allegations contained in Paragraph 39 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

40. With respect to the allegations contained in Paragraph 40 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

41. With respect to the allegations contained in Paragraph 41 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

42. With respect to the allegations contained in Paragraph 42 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

43. With respect to the allegations contained in Paragraph 43 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

44. The allegations contained in Paragraph 44 of the Complaint are denied. Defendant sold only certain scrap metal to Mr. Fortner, which was expressly sold only for the purposes of scrap.

45. With respect to the allegations contained in Paragraph 45 of the Complaint, it is admitted that Defendant has done business with Mr. Fortner on prior occasions. Defendant is without sufficient knowledge or information to form a belief as the truth of the rest of the allegations in this paragraph, and therefore Defendant must deny these allegations.

46. With respect to the allegations contained in Paragraph 46 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

47. With respect to the allegations contained in Paragraph 47 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

48. With respect to the allegations contained in Paragraph 48 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

49. With respect to the allegations contained in Paragraph 49 of the Complaint, it is admitted that Defendant sold approximately 8,000 pounds of scrap metal to Mr. Fortner for \$0.05 per pound, for a total price of \$411. Defendant is without sufficient knowledge or information to form a belief as the truth of the other allegations in this paragraph, and therefore Defendant must deny these allegations.

50. With respect to the allegations contained in Paragraph 50 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

51. With respect to the allegations contained in Paragraph 51 of the Complaint, it is admitted that Defendant sold approximately 8,000 pounds of scrap metal to Mr. Fortner for \$0.05 per pound, for a total price of \$411. Defendant is without sufficient knowledge or information to form a belief as the truth of the other allegations in this paragraph, and therefore Defendant must deny these allegations.

52. With respect to the allegations contained in Paragraph 52 of the Complaint, it is admitted that Defendant sold approximately 8,000 pounds of scrap metal to Mr. Fortner for \$0.05 per pound, for a total price of \$411. All other allegations in this paragraph are denied.

53. With respect to the allegations contained in Paragraph 53 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

54. With respect to the allegations contained in Paragraph 54 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

55. The allegations contained in Paragraph 55 of the Complaint are denied.

56. With respect to the allegations contained in Paragraph 56 of the Complaint, it is admitted that Defendant has never asked for, and Plaintiff has never granted, permission to use Plaintiff's trademark. All other allegations contained in this paragraph are denied.

57. The allegations contained in Paragraph 57 of the Complaint are denied.

58. The allegations contained in Paragraph 58 of the Complaint are denied.

59. The allegations contained in Paragraph 59 of the Complaint are denied.

60. The allegations contained in Paragraph 60 of the Complaint are denied.

61. The allegations contained in Paragraph 61 of the Complaint are denied.

62. The allegations contained in Paragraph 62 of the Complaint are denied.

63. The allegations contained in Paragraph 63 of the Complaint are denied.

64. The allegations contained in Paragraph 64 of the Complaint are denied.

65. With respect to the allegations contained in Paragraph 65 of the Complaint, this paragraph contains an incorporation of the previous paragraphs of Plaintiff's Complaint, and therefore does not require an admission or denial. To the extent this paragraph contains any allegations or claims against Defendant, such allegations are denied.

66. The allegations contained in Paragraph 66 of the Complaint are denied.

67. The allegations contained in Paragraph 67 of the Complaint are denied.

68. The allegations contained in Paragraph 68 of the Complaint are denied.

69. The allegations contained in Paragraph 69 of the Complaint are denied.

70. The allegations contained in Paragraph 70 of the Complaint are denied.

71. The allegations contained in Paragraph 71 of the Complaint are denied.

72. The allegations contained in Paragraph 72 of the Complaint are denied.

73. With respect to the allegations contained in Paragraph 73 of the Complaint, this paragraph contains an incorporation of the previous paragraphs of Plaintiff's Complaint, and therefore does not require an admission or denial. To the extent this paragraph contains any allegations or claims against Defendant, such allegations are denied.

74. With respect to the allegations contained in Paragraph 74 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

75. With respect to the allegations contained in Paragraph 75 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as the truth of the allegations in this paragraph, and therefore Defendant must deny these allegations.

76. The allegations contained in Paragraph 76 of the Complaint are denied.

77. The allegations contained in Paragraph 77 of the Complaint are denied.

78. The allegations contained in Paragraph 78 of the Complaint are denied.

79. The allegations contained in Paragraph 79 of the Complaint are denied.

80. The allegations contained in Paragraph 80 of the Complaint are denied.

81. The allegations contained in Paragraph 81 of the Complaint are denied.

82. With respect to the allegations contained in Paragraph 82 of the Complaint, this paragraph contains an incorporation of the previous paragraphs of Plaintiff's Complaint, and therefore does not require an admission or denial. To the extent this paragraph contains any allegations or claims against Defendant, such allegations are denied.

83. The allegations contained in Paragraph 83 of the Complaint are denied.

84. The allegations contained in Paragraph 84 of the Complaint are denied.

85. The allegations contained in Paragraph 85 of the Complaint are denied.

86. The allegations contained in Paragraph 86 of the Complaint are denied.

87. With respect to the allegations contained in Paragraph 87 of the Complaint, This paragraph contains an incorporation of the previous paragraphs of Plaintiff's Complaint, and therefore does not require an admission or denial. To the extent to which this paragraph contains any allegations or claims against Defendant, such allegations are denied.

88. The allegations contained in Paragraph 88 of the Complaint are denied.

89. The allegations contained in Paragraph 89 of the Complaint are denied.

90. The allegations contained in Paragraph 90 of the Complaint are denied.

91. The remainder of Plaintiff's Complaint, labeled as paragraphs A – F, contains only Plaintiff's prayer for relief from this court, and therefore requires no response from Defendant. However, to the extent these paragraphs contain any allegations or claims against Defendant, all such allegations are denied.

AFFIRMATIVE DEFENSES

92. Plaintiff's Complaint fails to state a claim against Defendants upon which relief can be granted.

93. Plaintiff's claims are barred, in whole or in part, based on the equitable doctrines of waiver, laches and/or estoppel.

94. Plaintiff has failed to join all necessary parties pursuant to Fed. R. Civ. P. Rule 19.

95. Defendant has never used Plaintiff's trademarks in any unlawful way, and does not do so now.

96. Defendant has never sold, distributed, manufactured or marketed products bearing Plaintiff's trademarks that were known by Defendant to be counterfeit products, and does not do so now.

97. Defendant has never wantonly, willfully or deliberately infringed on Plaintiff's trademarks.

98. Defendant has never knowingly, intentionally or in bad faith sold, distributed, displayed, advertised, or used counterfeit copies of Plaintiff's products.

Respectfully submitted,

PATRICK, BEARD, SCHULMAN & JACOWAY, P.C.

By: /s/Gary R. Patrick

Gary R. Patrick TN BPR # #001941

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CERTIFICATE OF SERVICE

I certify that on December 7, 2009, a copy of the foregoing **ANSWER** was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

PATRICK, BEARD, SCHULMAN & JACOWAY, P.C.

By: /s/Gary R. Patrick

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